Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45

COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.

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TABLE OF CONTENTS

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Qwest Communications International Inc. ("Qwest") files these comments in response to the Federal Communications Commission's ("Commission" or "FCC") *Notice of Inquiry*[1] seeking to refresh the record regarding the issues raised by the United States Court of Appeals for the Tenth Circuit ("Tenth Circuit" or "Court") in the *Qwest II* decision.[2]

I. INTRODUCTION AND SUMMARY

The Commission must move forward with bringing the non-rural high-cost support program into compliance with the Tenth Circuit's directives in *Qwest II*. Correcting the program can no longer wait to be addressed in comprehensive reform of the federal universal service program. The Commission needs to implement a high-cost distribution mechanism that complies with Section 254 of the Act[3] and better targets high-cost support to the high-cost areas served by non-rural carriers under the existing federal universal service program framework.

Qwest provides voice, data, Internet and video services nationwide and globally. Qwest's incumbent local exchange carrier ("ILEC") serving area spans the distance from roughly

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[1] *See In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337; CC Docket No. 96-45, FCC 09-28 (rel. Apr. 8, 2009) ("*Tenth Circuit Remand NOI*").

[2] *Qwest Communications Int'l, Inc. v. FCC*, 398 F.3d 1222 (10th Cir. 2005) ("*Qwest II*").

[3] 47 U.S.C. § 254.

the Mississippi River on the East, the Pacific Ocean on the West, Canada on the North and Mexico on the South. Its ILEC serving territory encompasses 272,000 square miles. As of December 31, 2008, Qwest provided 11.6 million voice grade access lines and 2.8 million broadband lines to customers in its territory[4] and currently has broadband available to 86 percent of its customer base.

Qwest's ILEC territory is diverse. It includes dense urban areas, smaller cities and towns, farmlands in rich agricultural areas, areas of dry land farming, national forest areas, bureau of land management areas, mountainous areas including national park areas, desert areas, and areas with a great number of lakes. It includes many rural communities and areas of low household density. In many cases the low density areas served by Qwest are also an extended distance from the nearest town.

Qwest has 1,310 local switching wire centers. Of these wire centers, 553 -- 42% -- are located outside of metropolitan areas.[5] These 553 wire centers serve 2.2 million access lines. Qwest serves many areas with low population density. Fewer customer premises for large areas result in low local loop density. For example, Qwest's wire centers in Lusk, WY and Gunnison, CO, have serving areas nearly three times larger than the entire state of Rhode Island.[6] But, the Lusk wire center has a local loop density of fewer than one access line per square mile and

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[4] Form 10-K of Qwest Communications International Inc., filed with the U.S. Securities and Exchange Commission, Feb. 13, 2009, at 2.

[5] Specifically, these are metropolitan areas defined as U.S. Census Bureau Metropolitan Statistical Areas (areas with more than 50,000 population).

[6] Both the Lusk and Gunnison wire center serving areas are approximately 2,900 square miles.

Gunnison has fewer than five access lines per square mile. By contrast, within the Washington, D.C. city limits there are approximately 10,000 access lines per square mile.[7]

In fact, Qwest has 34 wire centers that serve an area comparable to the area of Rhode Island or larger and 175 wire centers with local loop density of fewer than ten access lines per square mile. Additionally, as would be expected in extremely low density areas, Qwest serves local loops of extremely long length. For example, in the wire centers of Douglas, Wyoming and Gillette, Wyoming, Qwest serves customers with local loops in excess of 75 miles.

The extremely rural nature of many of Qwest's wire centers significantly increases its cost of providing basic local telephone service and broadband service in these rural areas relative to the costs for providing these services in more urban areas. This is due to several factors. The low density of its rural serving areas results in increased costs per customer access line as fixed costs are spread over fewer lines. And, the extremely long loop lengths result in significantly increased costs to place and maintain the physical plant from the central office to the customer's premises. Still further, the rocky and mountainous terrain that is encountered in much of Qwest's ILEC region as well as significant lake regions, in which it is harder to place and maintain physical plant, also drives up the cost of providing basic telephone service to customers in those areas.

And, Qwest faces robust competition in providing communication services throughout its ILEC region. In each state in Qwest's ILEC territory state regulators have found that there is

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[7] Washington, D.C. proper is 68.3 square miles. http://en.wikipedia.org/wiki/Washington,_D.C. Verizon has reported 668,803 access lines in D.C. to the National Exchange Carrier Association ("NECA"). The NECA file is available at the following link: http://www.fcc.gov/wcb/iatd/neca.html. The file from the 2007 Report is in the zip file USF08R07.zip and the file within the zip is USF2008LC08. The switched access line count for Verizon of DC is in cell R990.

sufficient competition in the provision of telecommunication services to afford reduced regulation or full deregulation of those services.

In spite of the significantly rural nature of its ILEC service territory, Qwest receives very limited high-cost federal universal service support. Although Qwest serves extremely rural areas in all fourteen of the states in its ILEC territory, Qwest only receives high cost support in four states: Montana, Wyoming, Nebraska and South Dakota. Thus, in Gunnison, Colorado, where Qwest has a local loop density of five access lines per square mile in a service area larger than the size of Rhode Island, Qwest receives no federal high-cost support. In spite of the significant rural territory that Qwest serves, for purposes of the federal universal service program, Qwest is considered a "non-rural" carrier and is only eligible for limited support from the federal "non-rural" universal service fund.[8] In 2009 Qwest is projected to receive approximately $25 million in support from the high-cost fund, or approximately 7% of the projected $337 million of high cost support for areas served by "non-rural" carriers, which is only 1% of the total $2.3 billion in high-cost support for "rural" and "non-rural" carriers.[9]

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[8] Qwest has three small rural affiliates that receive Federal USF:

- El Paso County Telephone which has 4,585 lines and receives $0.5M in rural high cost support;
- Northern Idaho which has 27,733 lines and receives $0.4M in rural high cost support;
- Malheur Telephone which has 11,908 lines and receives $0.6M in rural high cost support.

The $1.5M in rural high cost support is included in Qwest's total Federal high cost support of $25M. Line data is from the Universal Service Monitoring Report for 2008 Table 3.31 and Federal High Cost Support data is from USAC report HC-01 for 2nd Quarter 2009.

[9] Data is based on USAC HC-01 2Q09.

In fact, non-rural high-cost model support is only provided to ten states. In 2009, Mississippi alone is forecast to receive $199 million, almost 60% of this support.[10] Yet, there are clearly more than ten states in the country that have remote areas that have high costs for telephone service. The current mechanism for distributing support to "non-rural" carriers serving high-cost areas which remains in place in spite of the Tenth Circuit's invalidation of that mechanism over four years ago must be corrected to improve the distribution of this support.

To appropriately fix the flawed program, the Commission must better target the support to high-cost areas. This can be best accomplished through adoption of Qwest's proposal or through adoption of Embarq's proposal with certain modifications. These proposals both specifically eliminate the use of statewide average costs to allocate high-cost support and re-target the support directly to high-cost wire centers. The broadband commitment should be eliminated from the Embarq proposal and any universal service support for broadband deployment should be through a separate funding mechanism, and need not be addressed in this proceeding. The Commission should focus in this proceeding on fixing the support mechanism for the existing services identified for support. If, however, the Commission addresses universal service support for broadband in this proceeding, it should implement a separate mechanism to support broadband deployment to unserved areas as outlined in Qwest's broadband proposal.[11]

The Commission must define "reasonably comparable" in a manner that is consistent with its statutory obligation to preserve and advance universal service. The Commission can best advance universal service by better targeting support to where it is needed most to sustain

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[10] Source: USAC Report HC-02 for 2nd Quarter 2009.

[11] *See ex parte* Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Ms. Melissa Newman, Qwest, dated July 9, 2007, CC Docket No. 96-45 and its attached "Qwest's Proposal For Broadband Deployment To Unserved Areas"("Qwest White Paper").

quality telecommunication services in high-cost areas, and then ensuring that rates in those areas are reasonably comparable to rates in urban areas. The Commission could define rural rates as reasonably comparable to urban rates where the rural rates in a given state are within 25% of the statewide average urban rate for similar services within the state. Further, in a state where the state cannot certify that rates are reasonably comparable and the state has rebalanced rates to remove implicit subsidies, the Commission should have an automatic process for providing that state additional funding to enable the rates to be reasonably comparable.

But costs, not rates actually paid by consumers, should be the basis for allocating high-cost support. It is ultimately where costs are high that support is needed to maintain quality services at affordable and reasonably comparable rates for the long term. Where rates are regulated to be artificially low relative to costs, it would be unwise and potentially contrary to universal service goals to interpret that no support is necessary.

Sufficient support should incorporate several, but not all, of the Section 254(b) principles. Sufficient high-cost support for non-rural carriers[12] should be just enough to enable those carriers to offer in high-cost areas, quality services at rates that are affordable and are reasonably comparable to rates for similar services offered in urban areas. The mechanism for distributing support should be specific and predictable, and the support should be distributed in a company-neutral and technology-neutral manner.

[12] Embarq advocates for a modified high-cost mechanism that applies to all price-cap carriers, while the existing support mechanism for rural carriers would apply to all rate-of-return carriers. Qwest is willing to either change to the price cap/rate-of-return distinction or retain the existing rural/"non-rural" distinction, so long as the existing mechanism which distributes support to price-cap, "non-rural" carriers is corrected to better target support to the high-cost areas served by those carriers.

II. PARTIES' PROPOSALS

The Commission has identified four proposals for reforming the non-rural high-cost program for specific comment. Qwest continues to support its May 5, 2008 proposal. It is critical that the Commission eliminate distribution of support based on statewide averaging and instead retarget federal high-cost support to the highest cost wire centers served by non-rural carriers. The approach offered by Qwest is one way to do this and comply with the Tenth Circuit's directives in *Qwest II*. Alternatively, Qwest also supports much of the approach of the Embarq proposal, particularly with the modifications suggested by the Independent Telephone and Telecommunications Alliance ("ITTA").[13]

Better targeting of the high-cost model support is the key to addressing the Court's remand issues. Three of the four proposals discussed in the *NOI* propose re-targeting support to high-cost wire centers rather than continuing the statewide averaging methodology that is currently used. In today's marketplace, targeting support to high-cost wire centers will more effectively enable telecommunication services in rural and high-cost areas that are comparable to those in urban areas with comparable rates and quality of service.

The current mechanism allocates high-cost support to "non-rural" carriers in each state based on whether the ILEC's statewide average costs exceed a national benchmark. Even if a carrier serves several high-cost areas in a state, if its average costs statewide do not exceed the national benchmark, no high-cost support is available for that carrier in that state. As a result, today, many of the nation's most sparsely populated communities served by "non-rural" ILECs, like Qwest, receive little, if any, federal high-cost support. Even though the Commission is projected to disburse $337 million in federal "non-rural" support in 2009, that support will only

[13] *See* ITTA *ex parte*, CC Docket No. 96-45 and WC Docket No. 05-337, filed Oct. 10, 2008.

go to carriers in a handful of states.[14] At the local level, Qwest and other "non-rural" ILECs serve thousands of rural wire centers with very high costs -- as calculated by the Commission's High Cost Model -- yet receive little, if any, explicit federal support for those wire centers. For example, Qwest serves Patagonia, AZ (model monthly cost $127 per line), Deckers, CO (model monthly cost $137 per line), Rose Hill, IA (model monthly cost $162 per line), Comstock, MN (model monthly cost $221 per line), and Leonard, ND (model monthly cost $204 per line), but receives no federal high-cost support in any of these areas. Currently, the national average cost developed by the FCC's cost model is $21.43, and high-cost support is available where a non-rural carrier's statewide average cost per line exceeds two standard deviations of this national average, or $28.13 (the national benchmark). Clearly, all of the costs noted above, well exceed this national benchmark, but because statewide average costs -- and not individual wire center costs -- are measured against the benchmark, none of these wire centers receives federal high-cost support. There are hundreds of other examples of Qwest wire centers with costs above the national benchmark where Qwest receives no federal high-cost support.

The current use of statewide average costs to allocate high-cost support assumes that low cost urban areas can subsidize high-cost areas. But, competition today in urban areas does not allow support to flow to high-cost areas. In today's competitive marketplace a different allocation method must be adopted to effectively and efficiently target high-cost support to high-cost areas.

Any reform solution the Commission adopts must correct this critical flaw. Both the Qwest and Embarq proposals offer such a solution. Each comports with the Tenth Circuit's directives in *Qwest II*, can be relatively quickly implemented, and promotes the core goal of

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[14] The states receiving Federal non-rural high-cost support are AL, KY, ME, MS, MT, NE, SD, VT, WV, and WY. Source: USAC Report HC-02 for 2nd Quarter 2009.

universal access to telecommunications services without unnecessarily funding competition at the expense of universal access. Both advocate correcting the program to redistribute support directly to high-cost wire centers but in a manner that would not require a new cost model to be developed.

With respect to the Embarq proposal, one important modification is to eliminate the requirement that each support recipient commit to make available broadband of at least 1.5 Mbps downstream to at least 85% of their customers in each wire center receiving support. The proposed commitment is not necessary to address the Tenth Circuit's directives in *Qwest II*. Nor is it clear that it would be appropriate to condition support for high-cost program services on the provision of services that are not supported by the high-cost program. Further, any use of universal service funds to support broadband services should be addressed separately.[15] The mechanisms for preserving and advancing universal access to basic telecommunications services should not be formally tied to broadband deployment commitments, especially where the support to be provided is not for the direct purpose of enabling that broadband deployment and does not recognize and address the costs of that deployment. Any such commitment only imposes risk that providers who cannot meet that commitment will not only fail to deploy broadband, but also fail to sustain basic telephone service in high-cost areas, due to the loss of federal support needed to provide those services.

With respect to the Vermont & Maine proposal and the CostQuest proposal, these proposals are not effective solutions for fixing the non-rural high-cost mechanism. The most significant problem with the Vermont & Maine proposal is that it continues to rely on statewide

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[15] To the extent the Commission wishes to address universal service support of broadband in this proceeding, Qwest recommends adopting its broadband proposal as discussed in Section VI, *infra*.

average costs to determine support and thus does not adequately recognize and address the market realities of competition and loss of implicit subsidies from lower-cost urban areas to support higher-cost rural areas. It thus does not sufficiently provide support to many high-cost wire centers that need that support. Additionally, in the Vermont & Maine proposal "net subscriber costs" as a proxy for rates in a reasonable comparability standard and in a support calculation is too complex a showing that will severely undermine efficient administration of this program. Further, using costs as a proxy for rates in evaluating whether rates are reasonably comparable seems to inappropriately disregard consideration of the rates consumers are actually paying for telephone service. But, Qwest agrees that the Commission should continue to use a cost-based mechanism for determining support, and must act now to fix the high-cost support mechanism for non-rural carriers.

As to the CostQuest proposal, adopting a new, forward-looking cost model for determining high-cost support would take significant time and resources. The Commission's ability to create an accurate, effective model in a reasonable timeframe is highly questionable. Currently available census data is now nine years old and updated data will not be available for at least three years. Additionally, the process of adopting a telecommunications architecture for the model and identifying material prices, construction costs, and the thousands of inputs that are part of a forward-looking model has been and still is an arduous multi-year process. At this point, the Commission needs a viable solution to fix the non-rural support mechanism in accord with the Tenth Circuit directives in *Qwest II* that can be implemented quickly and effectively. Creating completely new cost and support models will not accomplish this. But, Qwest agrees that high-cost support should be distributed in a manner that is company- and technology-neutral.

III. DEFINITION OF REASONABLY COMPARABLE

Currently, the Commission has defined "reasonably comparable" such that rural rates are "reasonably comparable" if they fall within two standard deviations of the national urban rate from the Wireline Competition Bureau's annual rate survey.[16] In deriving this definition the Commission interpreted that its obligation to "preserve" universal service is consistent with not attempting to alter the rate disparities that existed at the time of the 1996 Act. But in *Qwest II*, the Tenth Circuit disagreed noting that the Commission had a concurrent obligation to "advance" universal service, which "certainly could include a narrowing of the existing gap between urban and rural rates." The Court ordered that "[o]n remand, the FCC must define the term 'reasonably comparable' in a manner that comports with its concurrent duties to preserve *and advance* universal service."[17]

It should be noted, however, that under the Court's decision, "advancing" universal service can -- but does not have to -- include narrowing the gap between urban and rural rates.[18] The Commission's duty to "advance" universal service can also be met through other means such as retargeting support to wire centers to more effectively distribute support to high-cost areas. The Tenth Circuit's directive to create a definition of "reasonably comparable" that is consistent with the Commission's duty to advance universal service can be satisfied by developing a mechanism that adapts universal service support to today's marketplace. Improving the distribution mechanism to enable high-cost support to be better directed to where

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[16] *Tenth Circuit Remand NOI* ¶ 4.

[17] *Qwest II*, 398 F.3d at 1236, 1237 (emphasis added).

[18] In fact, it could be argued that "reasonably comparable" should be defined to permit a wider range of rates to be viewed as "reasonably comparable" so that carriers could charge higher rural rates to recover their costs in high-cost areas with less need for implicit or explicit subsidies.

it is needed most advances universal service by improving the efficacy of that support in today's competitive marketplace.

Further, any definition of "reasonably comparable" that is to comport with the Commission's duty to advance universal service should not be defined solely in terms of rates, but also must recognize that Section 254(b)(3) calls for reasonably comparable services. The Commission should consider the appropriate definition of "reasonably comparable" in the context of both rates and services.

Assuming the Commission can demonstrate that it is advancing universal service in ways other than narrowing the gap between rural and urban rates, it may be appropriate to define rural rates as "reasonably comparable" to urban rates if the rural rates for the supported services fall within the full range of the Commission's selected published urban rates, as Embarq has proposed. Certainly this would make the range of rural rates co-extensive with the range of published urban rates.

Alternatively, reasonably comparable rates could be interpreted on a smaller scale and viewed as a comparison of rural and urban rates within a state. Although currently rural rates are compared to a national average urban rate, there is no language in Section 254 that requires that the rates be compared on a nationwide basis. The Commission could determine that rural rates within a state are reasonably comparable to urban rates within that state if the rural rates were within 25% of the statewide average urban rate for similar services. Urban rates would be the rates for services offered in standard metropolitan statistical areas.[19] Each state commission would certify annually whether the rates offered by non-rural carriers in the state's rural areas are

[19] These could be metropolitan areas as defined by the Office of Management and Budget as Metropolitan Statistical Areas (areas that have at least one urbanized area of 50,000 or more population). *See* "Metropolitan Statistical Area" link at http://www.whitehouse.gov/omb/inforeg/statpolicy.html#ms.

reasonably comparable to the rates offered in the state's urban areas. Assessing reasonable comparability based on a comparison of rural and urban rates within a state is a more practical comparison that is better aligned with states' authority over local rates. This approach should also yield a more meaningful comparison, assuming state rate designs are consistent across the state.

Additionally, where a state has rebalanced rates to remove implicit subsidies from the rates, and the resulting rates are outside of the range of reasonable comparability, additional federal high-cost support should be available to enable the rural rates to become reasonably comparable to the urban rates. This support should be available where the state is able to demonstrate that it has required subject carriers to de-average rates and provide cost-based residential rates with all implicit subsidies removed and it has implemented a state universal service fund. Additionally, this support should be available upon this showing (*i.e.*, without the need for further proceedings).[20] Upon such a showing, that area should be eligible for the amount of support necessary to bring rates to reasonably comparable levels in that area.

In whatever manner "reasonably comparable" rates are defined, whether rural and high-cost area consumers are actually paying reasonably comparable rates should not drive where support should be allocated or whether support should be allocated. If actual rates alone were to drive federal support, where service is being provided at state-mandated levels below cost, over

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[20] A relatively self-effectuating mechanism is critical to prevent requests for additional support from lingering indefinitely. The joint petition of the Wyoming Public Service Commission and the Wyoming Office of Consumer Advocate seeking additional federal high-cost support because non-rural carrier rates in Wyoming are not reasonably comparable has been pending before the Commission for over four years. *See In the Matter of Federal-State Joint Board on Universal Service*, Joint Petition of the Wyoming Public Service Commission and the Wyoming Office of Consumer Advocate for Supplemental Federal Universal Service Funds for Customers of Wyoming's Non-Rural Incumbent Local Exchange Carrier, CC Docket No. 96-45 (filed Dec. 21, 2004).

time service quality could go down and service could be stopped altogether, contrary to the core principles of preserving and advancing universal service. As between rates paid by consumers and geographic-specific provider costs, costs remain a superior basis for allocating support. Where costs are too high, funding is needed to enable providers to recover those costs and still provide reasonably comparable services at reasonably comparable rates that do not otherwise recover those costs. The ultimate purpose of the high-cost program is to preserve and advance universal service, not just ensure that rural and urban rates are reasonably comparable. Focusing high-cost support solely on rate comparability may be at cross-purposes with preserving and advancing the services supported by the fund.

IV. DEFINITION OF SUFFICIENT

The Commission has defined "sufficient" for purposes of the non-rural high-cost support mechanism as "'enough federal support to enable states to achieve reasonable comparability of rural and urban rates in high-cost areas served by non-rural carriers.'"[21] The Commission has also stated that "non-rural high-cost support should be 'only as large as necessary' to meet the statutory goal."[22] In *Qwest II* the Tenth Circuit viewed the latter statement to be an appropriate consideration, but also viewed that the Commission needed to consider other Section 254(b) principles, such as affordability, in defining sufficient. The Court instructed that "[o]n remand, the FCC must articulate a definition of 'sufficient' that appropriately considers the range of principles identified in the text of the statute."[23] To comply with the Court's directive, the Commission's definition of "sufficient" in the context of the non-rural high-cost mechanism

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[21] *Tenth Circuit Remand NOI* ¶ 4.

[22] *Id.* ¶ 20 (citation omitted).

[23] *Qwest II*, 398 F.3d at 1234.

must consider more than accomplishing reasonably comparable rates between rural and urban areas.

The Commission should consider all the principles of Section 254(b), but not all of them should apply to defining "sufficient" support for purposes of the non-rural high-cost support mechanism. Under this program, there should be enough support to non-rural carriers to enable them to offer in high-cost and rural areas, quality services at just, reasonable, and affordable rates, and that are reasonably comparable to the services and rates they offer in urban areas. The mechanism for distributing support should be specific and predictable, and the support should be provided in a manner that is neutral across companies and technologies. Additionally, the support should not go beyond accomplishing these principles. And, what is "sufficient" support also must encompass preventing excessive contribution fees that could result in compromising the affordability of rates.

Sufficient high-cost support should include enough support to enable rates in high-cost and rural areas to remain affordable for most customers. Affordability for low-income customers is appropriately addressed through the Low-Income Program and need not be duplicated in this program. High penetration rates throughout the country suggest that current rates are affordable so further efforts to ensure affordability of rural rates within the framework of the high-cost program seem unnecessary at this time.[24]

V. FUNDING MECHANISM

For the non-rural high-cost funding mechanism, the Commission established a cost benchmark that provided support in states where the non-rural carriers' average statewide costs per line exceeded the national average cost per line by more than two standard deviations. This

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[24] *See generally* Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, Telephone Subscribership in the United States (Data through July 2008 (rel. Mar. 2009)).

cost benchmark derived from the Commission's interpretation that rural rates within two standard deviations of the national average rate were reasonably comparable to urban rates.[25]

The Tenth Circuit found this approach invalid because the Commission presented no empirical data between the costs and the rates surveyed, and no empirical data that the cost-mechanism resulted in reasonably comparable rates. The Court directed that "[o]n remand, the FCC must utilize its unique expertise to craft a support mechanism taking into account all the factors that Congress identified in drafting the Act and its statutory obligation to preserve *and* advance universal service. No less important, the FCC must fully support its final decision on the basis of the record before it."[26]

It may be very difficult for the Commission to provide empirical data that any cost-mechanism it puts in place actually results in reasonably comparable rates. The reason for this is that several other factors besides just costs determine the rates that consumers are actually paying for service. Residential rates across the country are a product of state regulatory practices. It is only recently that basic local rates in a few states have become deregulated or subject to less regulation which allows them to move toward a market equilibrium level. Therefore, generally, no direct correlation exists between basic local rates and cost. Nevertheless, costs are a key driver of whether affordable rates and service quality can be maintained over an extended period of time. Where costs are high, either rates need to be high enough to cover those costs to maintain quality service, or lower rates need to be subsidized to maintain quality service.

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[25] *In the Matter of Federal-State Joint Board on Universal Service*, Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, 18 FCC Rcd 22559, 22582 ¶ 38 (2003). *See also In the Matter of Federal-State Joint Board on Universal Service; High Cost Universal Service Support*, Notice of Proposed Rulemaking, 20 FCC Rcd 19731, 19740 n.68 (2005).

[26] *Qwest II*, 398 F.3d at 1237 (emphasis in original).

But empirical data concerns do not preclude complying with the Tenth Circuit's directive here. Because, ultimately the Tenth Circuit directed the Commission to craft a mechanism that considers the universal service principles and preserves and advances universal service, by adopting "evolving rules recognizing changes in markets and technology."[27] The non-rural high-cost funding mechanism best accomplishes this by effectively targeting high-cost support for non-rural carriers to areas where it is needed most. In today's environment, that requires recognition that allocating support based on statewide average costs or rates is no longer effective. To advance universal service support to non-rural carriers, support must be targeted to individual wire centers. Targeting to wire centers spreads the support in a more equitable and logical manner. And, the non-rural funding mechanism should enable sufficient support to non-rural carriers in a specific, predictable, and company- and technology-neutral manner.

Separately, the high-cost support program should ensure that carriers receiving high-cost support are offering their supported services in rural and high-cost areas at rates that are reasonably comparable to those for the similar services provided in urban areas. This can be done by providing sufficient support such that states are able to certify that the rural rates within a state are reasonably comparable to urban rates within that state.

VI. THE COMMISSION'S TENTH CIRCUIT REMAND OBLIGATIONS AND ITS COMPREHENSIVE NATIONAL BROADBAND PLAN

The concept of universal access should be expanded to encompass universal access to broadband services. But, universal service support for broadband should be primarily to aid initial construction of broadband facilities to unserved areas. Further, spurring broadband deployment to unserved areas should be through a separate funding mechanism that can be, but is not required to be, considered in this proceeding.

[27] *Id.* at 1236 (citation omitted).

It is now generally agreed that it is time to aid universal access to broadband services through universal service support. Qwest currently offers broadband services to approximately 86 percent of the households in its region. In order to further expand its broadband footprint, Qwest must undertake costly upgrades to its network. In the absence of additional federal assistance, however, such upgrades are not economically feasible in many rural areas.

The grants for broadband deployment that will be provided by the National Telecommunications and Information Administration and the Rural Utilities Service pursuant to the American Reinvestment and Recovery Act are a start, but no one believes that this money will result in ubiquitous deployment of high speed broadband deployment to currently unserved areas. There remains a crucial role for universal service funding.

Qwest agrees with the Federal-State Joint Board on Universal Service that the primary purpose of any broadband deployment subsidization should be to aid construction of facilities in *unserved* areas.[28] But, high-cost support should not provide on-going operational subsidies. Nor should the support subsidize competition or build duplicate networks. For the unserved areas, only a single provider of broadband, regardless of the technology used, should receive federal universal service high-cost support.

Qwest supports using a competitive bidding mechanism that would award broadband deployment support to one winner -- the lowest qualified bidder. To maintain the competitive neutrality of the program, any provider that meets certain pre-established service quality and pricing standards should be permitted to bid.

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[28] *In the Matter of High-Cost Universal Service Support; Federal State Joint Board on Universal Service*, WC Docket No. 05-337; CC Docket No. 96-45, *Recommended Decision*, 22 FCC Rcd 20477, 20481-82 ¶¶ 12-15 (2007).

Consistent with these statements, Qwest has previously proposed a new federal universal service program that would provide one-time grants to selected applicants to deploy broadband to unserved areas.[29] Qwest again commends that proposal to this Commission for its consideration in crafting a successful, efficient, and cost-effective universal service support program for broadband deployment to unserved areas.

Further, critical to any proposal to spur broadband deployment is consideration of the proposal's likely effectiveness in accomplishing the goal of "ensuring that broadband is available to all Americans,"[30] and means of measuring that effectiveness. To design an effective universal service program for enabling broadband deployment to unserved areas, the Commission should not only create the support mechanism, but also set clear, realistic goals and performance measures for the program, and ensure well-targeted, sufficient support for the areas that need broadband deployment. Critical to this effort is tying broadband support directly to the costs to deploy broadband to unserved areas.

Now is the time to use both the positive and negative lessons of the current universal service support mechanisms to create a new support mechanism for broadband deployment to unserved areas that implements the successes but does not replicate or perpetuate the problems of those mechanisms. By instituting a new USF strategy to spur broadband to unserved areas, the Commission can recognize that broadband -- the fundamental technology of the twenty-first century economy -- must be supported in a rational and cost effective fashion.

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[29] *See* Qwest White Paper, n.11, *supra*.

[30] *In the Matter of High-Cost Universal Service Support, etc.*, WC Docket No. 05-337, *et al.*, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, FCC 08-262, at App. A ¶ 4 (rel. Nov. 5, 2008), *appeals pending sub nom.*, *Core Communications, Inc. v. FCC*, Nos. 08-1365, *et al.* (D.C. Cir. filed Nov. 21, 2008).

VII. CONCLUSION

The Commission must not wait any longer to correct its flawed mechanism for distributing high-cost support to "non-rural" carriers. Further delay threatens the quality of basic telephone service for customers living in high-cost areas where adequate high-cost support is not being provided, and inhibits "non-rural" carriers' ability to provide broadband services to these areas. The Commission should focus its attention on expeditiously implementing the Tenth Circuit's directives to effect a funding mechanism that provides sufficient support and ensures reasonably comparable rural rates in today's competitive marketplace.

Respectfully submitted,

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May 8, 2009

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.** to be 1) filed with the FCC via its Electronic Comment Filing System in WC Docket No. 05-337 and CC Docket No. 96-45; 2) served via e-mail on Ms. Antoinette Stevens, Telecommunications Access Policy Division, Wireline Competition Bureau at antoinette.stevens@fcc.gov; and 3) served via e-mail on the FCC's duplicating contractor Best Copy and Printing, Inc. at fcc@bcpiweb.com.

/s/Richard Grozier

May 8, 2009